

Magistrate Judge J. Richard Creatura

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff

v.

DAVID GUILLEN-RODRIGUEZ

Defendant.

NO.

MJ19-5129

COMPLAINT for VIOLATION
U.S.C. Title 8 Section 1326(a)
(Illegal Reentry After Deportation)

(Felony)

BEFORE, United States Magistrate Judge, J. Richard Creatura,
United States Courthouse, 1717 Pacific Ave., Tacoma, Washington.

COUNT I

On or about December 20, 2015, in Shelton, within the Western District of Washington, DAVID GUILLEN-RODRIGUEZ, an alien, a native and citizen of Mexico, who was previously arrested and deported from the United States on July 20, 2011, at San Ysidro, California, was found after knowingly and voluntarily reentering the United States without the express consent of the Secretary of the Department of Homeland Security.

All in violation of Title 8, United States Code, Section 1326(a).

The undersigned complainant being duly sworn states:

1 I, Neil Schaefer, am a Deportation Officer in the United States Department
2 of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), assigned to
3 the Office of Enforcement and Removal Operations (ERO) for the Seattle District Field
4 Office in Tukwila, Washington. Part of my duties entail the location and apprehension of
5 aliens in the United States who have been engaged, or currently are engaged, in criminal
6 activity.

7 The following information is based on my investigation, the investigation of other
8 officers of ICE, the records of: (1) the United States Citizenship and Immigration
9 Services (hereinafter CIS); (2) the United States Border Patrol (3) the United States
10 District Court for the Southern District of California; (4) the United States District Court
11 for the District of Arizona; (5) the Superior Court of Washington for Thurston County;
12 and (6) the Federal Bureau of Investigation (FBI) Criminal Justice Information Services
13 Division.

14 2. My investigation establishes that CIS maintains an alien registration
15 administrative file, commonly referred to as an A-file, A072 707 773, on DAVID
16 GUILLEN-RODRIGUEZ. A-file 072 707 773 is the official immigration file maintained
17 by CIS and is a consolidated repository of all known immigration contacts with DAVID
18 GUILLEN-RODRIGUEZ, hereinafter "defendant." The A-file of the defendant contains
19 documents showing that he is a native and citizen of Mexico.

20 3. The A-file of the defendant contains the conviction documents from the
21 records of the United States District Court for the Southern District of California; the
22 United States District Court for the District of Arizona; and the Superior Court of
23 Washington for Thurston County. These records indicate that the defendant was
24 convicted of the following offenses:

- 25 (a) the United States District Court for the Southern District of
26 California, case number 13CR2058-JLS, for the offense of Unlawful
27 Entry, in violation of 8 U.S.C. § 1325(a), sentenced to eight months
28 in prison on September 13, 2013;

- (b) the United States District Court for the District of Arizona, case number 12-12951-001M-(DTF), for the offense of Unlawful Entry, in violation of 8 U.S.C. § 1325(a), sentenced to 180 days in prison on September 24, 2012;
- (c) the United States District Court for the Southern District of California, case number 11-CR-787-L, for the offense of Unlawful Entry, in violation of 8 U.S.C. § 1325(a), sentenced to time served on July 9, 2011;
- (d) the Superior Court of Washington for Thurston County, case number 101010185, for the offenses of Communication with a Minor for Immoral Purposes and Assault-2, in violation of RCW 9.68A.090(1) and 9A.36.021(1)(a) DV, sentenced to four months in prison November 15, 2010.

The A-file for the defendant does not contain the conviction documents for the following convictions, but has been confirmed through a national criminal database:

- (e) the Olympia Municipal Court, case number 2018588, for the offense of Disorderly Conduct- Endanger DV, in violation of RCW 35/36.00.000, sentenced to one day in jail November 30, 2018.
- (f) the Thurston County District Court, case number 8Z0018946, for the offense of Ignition Interlock Violation, in violation of RCW 46.20.750. Sentenced to 30 days imprisonment on March 20, 2018.
- (g) the Mason County Superior Court, case number 15005774, for the offenses of Attempt to Elude; Driving Under the Influence; and Hit and Run-Attended Property Damage, in violation of RCW 46.61.024(1); 46.61.502(5); and 46.52.020(5). Sentenced to 45 days jail and 24 months on probation;

- (h) the Mason County District Court, case numbers CR 4354 and CR4355, for the offenses of Forest Products Violation and Criminal Trespass-2 DV, in violation of RCW 76.48.130 and 9A.52.080. Sentenced to 12 months supervision on April 23, 1998;
- (i) the Mason County District Court, case number C71209, for the offense of Driving Under the Influence, in violation of RCW 46.61.502. Sentenced to 45 days in jail, 24 months community service on March 27, 1998;
- (j) the Mason County District Court, case number CR2105, for the offense of Forest Products Violation, in violation of RCW 76.00.000. Sentenced to 23 days in jail on February 26, 1997.

4. Within the A-file of the defendant, there are two executed I-205 and one executed I-296, Warrant of Removal/Deportation and Notice to Alien Ordered Removed/Departure Verification documents. These documents reflect that the defendant was deported to Mexico on the following dates and locations;

- (i) January 4, 2014, at San Ysidro, California;
- (ii) March 22, 2013, at Nogales, Arizona;
- (iii) September 1, 2012, at Brownsville, Texas;
- (iv) July 20, 2011, at San Ysidro, California;
- (v) December 12, 2010, at San Ysidro, California;
- (vi) November 27, 2010, at San Ysidro, California;
- (vii) April 10, 2001, at Otay Mesa, California;
- (viii) December 22, 1998, at Paso Del Norte, Texas.

The forms I-205 and I-296 bear the fingerprint, signature, and photograph of the defendant. Physical proof of the defendant's removals from the United States to Mexico was witnessed by immigration officers.

5. On April 7, 1998, the Immigration and Naturalization Service encountered the defendant at the Mason County Jail in Shelton, Washington. The defendant was

1 processed and granted a Voluntary Return. The defendant was returned to Mexico on
2 April 10, 1998. However, he later returned to the United States.

3 On November 25, 1998 the defendant was processed for a Notice to Appear. On
4 December 21, 1998, an immigration judge in Seattle, Washington, ordered the defendant
5 deported from the United States to Mexico pursuant to the charges set forth in the Notice
6 to Appear. The defendant was deported to Mexico on December 22, 1998. However, he
7 later returned to the United States.

8 6. On December 20, 2015, the defendant was brought to the attention of
9 Deportation Officer Russell Neal after the defendant was booked into Mason County Jail
10 in Shelton, Washington, and charged with Driving Under the Influence; Failure to
11 Comply; and Criminal Impersonation. A detainer was lodged with the Mason County Jail
12 requesting notification of the defendant's release; however, the defendant was released to
13 the streets on March 16, 2016, without ICE being notified.

14 Officer Neal conducted records checks such as the Treasury Enforcement
15 Communication System (TECS) and with the Citizenship and Immigration Service (CIS).
16 Officer Neal determined there was a match for the defendant's A-file A072 707 773 and
17 FBI Number 247599HB9.

18 On January 23, 2018, the defendant was encountered at the Thurston County Jail
19 after he was arrested for Driving While License Suspended-2 and Ignition Interlock
20 Violation. A second detainer was placed with the Thurston County Jail in Olympia,
21 Washington. However, the defendant was released to the streets without ICE being
22 notified.

23 On August 23, 2018, the defendant was encountered at the Mason County Jail.
24 The defendant was charged with Assault-4 Domestic Violence. A third ICE detainer was
25 lodged with the Mason County Jail on the same date requesting notification of the
26 defendant's release. The Mason County Sheriff's Office responded with a letter stating
27 they would not honor ICE detainers/administrative warrants that are not signed by a
28 magistrate or judge. The defendant was released to the streets without ICE being notified.

1 On June 26, 2019, the defendant was encountered at the Thurston County Jail. The
2 defendant was charged with Criminal Impersonation-1. A fourth ICE detainer was lodged
3 with the Thurston County Jail requesting notification of the defendant's release.
4 However, the defendant was released to the streets without ICE being notified.

5 On July 11, 2019, Deportation Officer Russell Neal encountered the defendant at
6 the Thurston County Jail in Olympia, Washington. The defendant was charged with
7 Criminal Impersonation-1; Identity Theft-2; and two counts of an Order Restricting
8 Contact Violation-Domestic Violence. On the same date, a fifth ICE detainer was lodged
9 with the Thurston County Jail requesting notification of the defendant's release.

10 7. On July 12, 2019, I requested a copy of the fingerprint card submitted to the
11 FBI for the defendant's previous arrest. On July 12, 2019, I received the fingerprints. On
12 July 16, 2019 I electronically submitted the defendant's fingerprints to the FBI via the
13 Next Generation Identification (NGI) system. I submitted the defendant's fingerprints as
14 a search transaction, which is a request to a FBI fingerprint examiner to confirm a
15 potential match between the defendant and other NGI individuals maintained in the FBI's
16 Criminal Master File.

17 On July 16, 2019, I obtained confirmation from the FBI the fingerprints I
18 submitted of the defendant was a match with FBI number 247599HB9. This is the same
19 FBI number associated with the defendant's Immigration file, A072 707 773 and the
20 convictions noted in paragraph 3 above.

21 8. I have conducted a complete and thorough review of the defendant's
22 Immigration A-file A072 707 773 which contains no evidence the defendant has ever
23 received permission to enter the United States after his last deportation.

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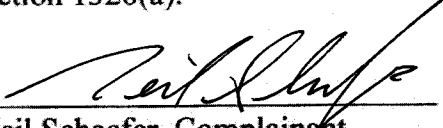
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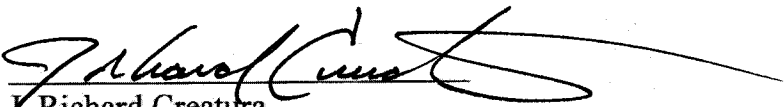
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1 9. Based on the foregoing, I have probable cause to believe that DAVID
2 GUILLEN-RODRIGUEZ has reentered the United States knowingly and voluntarily
3 without the express consent of the Secretary of the Department of Homeland Security, in
4 violation of Title 8, United States Code, Section 1326(a).

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6 
7 Neil Schaefer, Complainant
8 ICE Deportation Officer

9 Reviewed by AUSA Don Reno 

10 Based on the Complaint and Affidavit sworn to before me, and subscribed in my
11 presence this July 18, 2019, the Court hereby finds that there is probable cause to believe
12 the defendant committed the offense set forth in the Complaint.

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15 Richard Creatura
16 United States Magistrate Judge
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